

General Information Letter: Exempt organizations are subject to Illinois income tax on unrelated business taxable income.

March 29, 2001

Dear:

This is in response to your letter dated February 21, 2001 in which you state the following:

Our xxxxxxxx (a General Not For Profit unit) is considering selling for about \$100,000. some town lots that have been owned by the unit for about 50 years. Some of our members have questions on the two following points:

1. Would the xxxx be required to pay (income?) taxes because of such sale? (We annually file a 990 Form with the Dept of Illinois xxx for a consolidated return to the IRS). (We also file an AG990-IL with the Charitable Trust Bureau because the xxxx has a Pull-Tab license).
2. Is there a rule/law that states that a Not For Profit unit can retain only so many dollars from that income and would have to divest the remainder in a certain length of time? (If the xxxx does sell the lots, it is proposed that a certain amount would be used for improvements within a year, allocate a certain amount for use in the next several years, and tie up the remainder for a longer period of time).

As a matter of information, the xxxxxxxx does not have a large annual income. The usual income may vary from \$13,000 to \$20,000. annually.

Possibly where the question comes from is regarding the AG990-IL report wherein all revenue and expenditures are listed. This then may show a revenue of \$120,000 for the year with only \$3,000 of that coming from the Pull-Tab operation, and only \$2000. spent on the Charitable Program (but that \$2000. is 66% of the Pull-Tab revenue from the Pull-Tab operation is controlling the other not related income.

Your response or referral would be appreciated. For referral, an attorney that specializes in what field would be appropriate. If your quick answer is to contact the Charitable Trust Bureau, we have the Chicago address.

According to the Department of Revenue ("Department") regulations, the Department may issue only two types of letter rulings: Private Letter Rulings ("PLR") and General Information Letters ("GIL"). The regulations explaining these two types of rulings issued by the Department can be found in 2 Ill. Adm. Code §1200, or on the website <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

Due to the nature of your inquiry and the information presented in your letter, we are required to respond with a GIL. GILs are designed to provide background information on specific topics. GILs, however, are not binding on the Department.

Your letter addresses an issue that is covered in Section 205 of the Illinois Income Tax Act ("IITA"), 35 ILCS 5/101 et seq, which explains exempt organizations:

- (a) Charitable, etc. organizations. The base income of an organization which is exempt from the federal income tax by reason of Section 501(a) of the Internal Revenue Code shall not be determined under Section 203 of this Act, but shall be its unrelated business taxable income as determined under Section 512 of the Internal Revenue Code, without any deduction for the tax imposed by this Act. The standard exemption provided by Section 204 of this Act shall not be allowed in determining the net income of an organization to which this subsection applies.

According to your letter, the sale of the town lots will not be related to your charitable activities. As a result, your organization will be subject to Illinois income tax on this or any other unrelated business taxable income. Such income must be reported by your organization on Form IL-990-T.

Regarding your second question, there is no rule that states that your organization can retain only so many dollars from the income of the sale of real property. The lots you intend to sell are not used in performing the exempt functions of your organization, and for that reason, your organization would not have to divest a certain amount of the income in a certain amount of time.

As stated above, this is a general information letter which does not constitute a statement of policy that either applies, interprets or prescribes tax law. It is not binding on the Department. Should you have additional questions, please do not hesitate to contact our office.

Sincerely,

Heidi Scott
Staff Attorney -- Income Tax